

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SCS-03 L-03 JUSE-00 TRSE-00 SEC-01

SCA-01 SS-15 NSC-05 EB-07 SP-02 CIAE-00 INR-07

NSAE-00 /057 W

----- 084661

R 181631Z JUN 75

FM AMEMBASSY BERN

TO SECSTATE WASHDC 845

INFO AMCONSUL ZURICH

C O N F I D E N T I A L BERN 2521

E.O. 11652: GDS

TAGS: PFOR, CFED, SZ (JUDICIAL ASSISTANCE TREATY)

SUBJECT: JUDICIAL ASSISTANCE TREATY

REF: BERN 2501

1. SWISS UPPER HOUSE JUNE 18 PASSED THE JUDICIAL ASSISTANCE TREATY BY 25-4 VOTE AND UNANIMOUSLY PASSED THE IMPLEMENTING LEGISLATION WHICH WE WERE INFORMED BY KEY LEGISLATOR DIFFERS IN NUMEROUS BUT MINOR WAYS WITH THE VERSION PASSED BY THE LOWER HOUSE. AS A RESULT, THE IMPLEMENTING LEGISLATION WILL HAVE TO BE RE-SUBMITTED TO LOWER HOUSE WHEN IT NEXT MEETS IN SEPTEMBER. CHAIRMAN OF LOWER HOUSE COMMITTEE (KOLLER), WHICH EARLIER CONSIDERED THE LEGISLATION TOLD EMBOFF THAT THE INSIGNIFICANT AMENDMENTS ADOPTED BY UPPER HOUSE WILL POSE NO PROBLEMS FOR LOWER HOUSE.

2. CONSIDERATION OF TREATY AND IMPLEMENTING LEGISLATION CONSUMED ONLY ABOUT AN HOUR. SEVERAL LEGISLATORS EXPRESSED MISGIVINGS THAT TREATY MIGHT BE USED BY US TO GAIN COMMERCIAL INTELLIGENCE, THAT US MIGHT RESORT TO TREATY BEFORE EXHAUSTING REMEDIES IN ITS OWN JUDICIAL SYSTEM, AND THAT TREAY MIGHT PROVIDE PRECEDENT FOR SIMILAR AGREEMENTS WITH OTHER COUNTRIES.

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3. CHEESE ISSUE WAS TOUCHED ON BRIEFLY. IN INTRODUCING

THE TREATY, THE COMMITTEE CHAIRMAN NOTED THAT SWITZERLAND WAS SHOWING UNDERSTANDING FOR THE US DETERMINATION TO FIGHT INTERNATIONAL CRIME (IT WAS ALSO IN THE GOS' OWN INTEREST), BUT THAT THE US WAS PREPARING IN OTHER AREAS TO SHOW UNDERSTANDING FOR THE SPECIAL SITUATION IN SWITZERLAND, SPECIFICALLY MENTIONING ON-GOING TRADE NEGOTIATIONS. IN RESPONSE TO SPECIFIC INTERPELLATION ABOUT CHEESE, FEDERAL COUNCILOR FURGLER REPLIED THAT SWISS WERE NOT NEGOTIATING ON CHEESE "WITH EYES BLINDFOLDED" AND WOULD PRESS SWISS INTERESTS. NEVERTHELESS, SWISS DID NOT WISH TO ESTABLISH SATISFACTORY OUTCOME ON CHEESE AS PRECONDITION FOR PASSAGE OF TREATY; THE TWO ISSUES WERE ENTIRELY SEPARATE.

4. ONE OF THE LEGISLATORS NOTED THAT USG DID NOT SEEM TO BE PRESSING FOR TREATY SINCE SO FAR IT HAD TAKEN NO STEPS TOWARD RATIFICATION. FURGLER DID NOT COMMENT. KOLLER ALSO MENTIONED TO EMBOFF HE WAS CURIOUS AS TO WHY U.S. HAD NOT ACTED. HE ANTICIPATED THAT THIS QUESTION WOULD AGAIN BE RAISED IN SEPTEMBER.

5. IN RESPONDING TO PLEAS BY ONE INTERPELLATOR THAT CANTONS BE GIVEN BIGGER VOICE IN TREATY IMPLEMENTATION, FURGLER REPLIED THAT VIEWS ON LOCAL BODIES WOULD BE CAREFULLY CONSIDERED BUT IT WAS SIMPLY NOT FEASIBLE TO IMPLEMENT THE TREATY IN 25 DIFFERENT WAYS.

6. COMMENT: TONE OF DEBATE AND REMARKS BY FURGLER AND KOLLER STRONGLY SUGGEST THAT SLIGHT TEXTUAL CHANGES IN UPPER HOUSE IMPLEMENTING LEGISLATION OCCURRED AS RESULT OF LAWYERS' "FINE-TUNING" AND DID NOT REPRESENT ATTEMPT TO HOLD TREATY HOSTAGE TO THE CHEESE ISSUE. IT ALSO CLEAR THAT LEGISLATORS ARE NOT AWARE OF PENDING US-GOS EXCHANGE OF NOTES CLARIFYING ARTICLE 26.2.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, JUDICIAL ASSISTANCE TREATY, CONSULAR LEGAL ASSISTANCE
Control Number: n/a
Copy: SINGLE
Draft Date: 18 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BERN02521
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750212-0937
From: BERN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750636/aaaabgmi.tel
Line Count: 95
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 BERN 2501
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 18 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 JUN 2003 by BoyleJA>; APPROVED <12 NOV 2003 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: JUDICIAL ASSISTANCE TREATY
TAGS: PFOR, CFED, PGOV, SZ, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006